



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 232

**[Docket No. FR-5632-P-01]
RIN 2502-AJ27**

Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of the Purchase and Installation of Fire Safety Equipment in FHA-Insured Healthcare Facilities

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: FHA insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of multifamily housing under the National Housing Act, and nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities (collectively residential healthcare facilities) under section 232 of the National Housing Act (the Section 232 program). Through this rule, HUD proposes to update HUD fees for multifamily housing and residential healthcare facilities and to update and streamline the Section 232 program regulations that govern the financing of the purchase and installation of fire safety equipment in the insured healthcare facilities, which have not been substantially updated in over 20 years. The proposed changes would give HUD flexibility in raising or lowering fees, and for residential healthcare facilities, streamline the loan application process by eliminating unnecessary requirements, conforming needed requirements to current industry practices, and allowing for HUD to centralize the loan application process.

DATES: Comment Due Date: **[Insert date 60 days from the date of publication in the Federal Register].**

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD

Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: For information about: HUD's Multifamily Housing program, contact Dan Sullivan, Deputy Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6148, Washington, DC 20410-8000; telephone number 202-708-1142; HUD's Healthcare program, contact Vance Morris, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6134, Washington, DC 20410-8000; telephone number 202-402-2419. The telephone numbers listed above are not toll-free numbers. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION

I. Background

HUD Fees

Section 207(d) of the National Housing Act (12 U.S.C. 1713) authorizes the Secretary, as he determines necessary, to charge and collect fees for the appraisal of a property or project offered for insurance and for the inspection of such property, as long as such fees do not exceed one percent of the amount of the mortgage. Despite the flexibility to set fees given to the Secretary in the statute, relevant HUD fees are currently set by regulation in parts 200 and 232, which does not allow HUD the flexibility necessary to adapt to market changes in a timely

manner.

Loans to Finance the Purchase of Fire Safety Equipment

Under section 232 of the National Housing Act (12 U.S.C. 1715w), FHA insures mortgage loans to finance the development of residential healthcare facilities. HUD's regulations for the Section 232 program are codified in 24 CFR part 232. In addition to insuring such mortgage loans, FHA insures, under the Section 232 program, loans to finance the purchase and installation of fire safety equipment in insured healthcare facilities.

The Fire Safety Equipment Loan Act (Public Law 93-204, approved December 28, 1973) amended section 232 of the National Housing Act to provide that insurable equipment under the Section 232 program includes the cost of installation of fire safety equipment (see 12 U.S.C. 1715w(i)). This law was enacted to help residential healthcare facilities comply with the 1967 Life Safety Code of the National Fire Protection Program (LSC).¹

In 1974, HUD established its Fire Safety Equipment Loan Program (FSELP) and promulgated regulations in 24 CFR part 232, subpart C, to implement the program (Subpart C regulations). On August 13, 2008, at 73 FR 47075, the Centers for Medicare and Medicaid Services (CMS) published in the Federal Register a final rule that requires every CMS certified long-term care facility² to have automatic fire sprinkler systems installed no later than August 13, 2013.³ CMS requirements for these facilities to have automatic sprinkler systems highlights HUD's need to update the Section 232 regulations that govern the financing of the purchase and installation of fire safety equipment.

¹ The LSC is administered, trademarked, copyrighted, and published by the National Fire Protection Association. The standard primarily addresses "those construction, protection, and occupancy features necessary to minimize danger to life from the effects of fire, including smoke, heat, and toxic gases created during a fire."

² A CMS certified long-term care facility is one approved to participate in the Medicare and Medicaid programs.

³ On May 12, 2014, CMS published a final rule, at 79 FR 27106, to permit a very limited extension of the automatic sprinkler due date for a facility that is building a replacement or undergoing modification to unsprinklered areas.

II. This Proposed Rule

Update and Streamline HUD Fees

A. Application and Commitment Fees. Currently, under § 232.505(c), the borrower is required to pay, as an application fee, \$2.00 per thousand dollars of the amount of the fire safety loan. Under § 232.510(d), the borrower must pay a commitment fee which, when added to the application fee, will aggregate \$4.00 per thousand of the amount of the fire safety loan but with a minimum of \$50.00 for both fees. HUD's general "fee" provisions in 24 CFR 200.40, entitled "HUD Fees", which set forth the applicable fees for relevant FHA-insured mortgages, however, combine the application fee and commitment fee rather than providing two separate fees as is currently the case in the Subpart C regulations.

To bring consistency among these fee regulations and to more clearly set forth HUD's fee structure, this rule proposes to revise § 232.505(c), entitled "Application fee" and § 232.510(d) entitled "Commitment fee" to cross-reference to a new § 200.40(d)(2), which would be entitled "Application fee—Section 232 Programs." Specifically, in § 200.40, HUD proposes to amend §200.40(d) to designate the existing text in paragraph (d) as paragraph (d)(1), revise newly designated paragraph (d)(1) to allow the Secretary to decrease the application fee, and add a new paragraph (d)(2) that would provide the Secretary with flexibility to set the application fee for insured loans to finance the purchase and installation of fire safety equipment.

B. Maximum fees and charges. In § 232.520, the proposed rule would cross-reference 24 CFR 200.40 and 24 CFR 200.41. These two regulatory sections contain the fees that apply to most mortgages insured by FHA, including Section 232 mortgages.

C. Inspection fee. In § 232.522, the proposed rule would cross-reference 24 CFR 200.40 and 24 CFR 200.41 for the same reasons stated above.

D. Refund of fees. Since this rule proposes to eliminate the commitment fee in the Subpart C regulations, the rule also proposes to eliminate the requirement in § 232.515 that the commitment fee be refunded. The provisions allowing for refund of the application fee remains unchanged.

Update and Streamline 24 CFR 232 Subpart C Regulations

Through this rule, HUD also proposes to update and streamline the requirements of other Subpart C regulations. HUD's Subpart C regulations currently provide that fire safety equipment means equipment that is purchased, installed, and maintained in a nursing home, intermediate care facility, assisted living facility, or board and care home and that meets the following standards for the applicable occupancy: (i) The Life Safety Code of the National Fire Protection Association (any edition after 1966); or (ii) A standard mandated by a State, under the provisions of section 1616(e) of the Social Security Act⁴; or (iii) Any appropriate requirement approved by the Secretary of Health and Human Services (HHS) for providers of services under title XVIII or title XIX of the Social Security Act. (These sections establish the Medicare and Medicaid programs, respectively.) Therefore, this rule does not need to propose language to require the installation of an automated fire sprinkler system as recently promulgated by CMS but, given that this requirement is now in place, HUD seeks to streamline its regulations to assist owners of healthcare facilities to obtain a loan, if necessary, to finance the purchase and installation of such systems. The streamlining of the Subpart C regulations proposed by this rule would primarily

⁴ Under section 1616(e) of the Social Security Act, States are required to establish or designate one or more State or local authorities that must establish, maintain and ensure the enforcement of standards for any category of institution, foster home, or group living arrangement in which (as determined by the State) a significant number of SSI recipients are residing or are likely to reside. Standards shall be appropriate to the needs of the recipient and the character of the facilities involved and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights. Further, each State is required to maintain records of information concerning standards, procedures available to ensure enforcement of the standards, and a list of waivers of standards and violations of standards by specific facilities. These records must be made available annually to the public. To ensure compliance with the requirements of section 1616(e) of the Social Security Act, each State must certify annually to SSA's Office of the Commissioner that designated licensing authorities have implemented all aspects of the program.

focus on removing or revising several fees required in the Subpart C regulations that HUD has determined are no longer needed or, alternatively, are not set at sufficient levels.

A. Definitions. This rule proposes to revise two definitions in § 232.500. First, HUD would revise the definition of “fire safety equipment” in § 232.500(c)(1) regarding the standard for acceptable fire safety equipment. The proposed rule would update the outdated standard in § 232.500(c)(1) which currently requires “fire safety equipment” to meet the standards for applicable occupancy of any edition of the Life Safety Code⁵ of the National Fire Protection Association after 1966 (§ 232.500(c)(1)(i)); or a standard mandated by a State, under the provisions of section 1616(e) of the Social Security Act (§ 232.500(c)(1)(ii)); or any appropriate requirement approved by the Secretary of HHS for providers of services under title XVIII or title XIX of the Social Security Act (§ 232.500(c)(1)(iii)).

For § 232.500(c)(1)(i), this rule proposes to instead require “fire safety equipment” to meet the applicable provisions of the edition of the LSC adopted by the Secretary of HHS. For § 232.500(c)(1)(ii), HUD proposes no change. For § 232.500(c)(1)(iii), HUD proposes to remove this requirement since approval by the Secretary of HHS is achieved through the change to § 232.500(c)(1)(i). This update will allow HUD’s regulation to continue to reflect the LSC standards specified by HHS without undergoing the lengthy rulemaking process when the standards are changed over time.

Second, the proposed rule would revise the definition of “equipment cost” in § 232.500(e) to eliminate the involvement of the Secretary of HHS in estimating the reasonable cost of the fire safety equipment installation. As § 232.500(e) currently provides, the FHA

⁵ The Life Safety Code addresses those construction, protection, and occupancy features necessary to minimize danger to life from the effects of fire, including smoke, heat, and toxic gases created during a fire. The Code also addresses protective features and systems, building services, operating features, maintenance activities, and other provisions in recognition of the fact that achieving an acceptable degree of life safety depends on additional safeguards to provide adequate egress time or protection for people exposed to fire.

Commissioner makes the determination of the reasonableness of cost, while the Secretary of HHS only provides an estimate. HUD has determined that the estimate by the Secretary of HHS is an unnecessary step.

B. Applications. This proposed rule would remove the requirement at § 232.505(a) that an application for insurance of a fire safety loan under part 232 must be considered in connection with a proposal approved by the Secretary of HHS. In order to streamline the loan application process, this proposed change reflects HUD's decision that approval of a proposal by the Secretary of HHS in connection with each loan application is unnecessary. Section 232.615 would still require, however, that the facility requesting the loan meet HHS fire safety requirements.

In § 232.505(b), entitled "Filing of Application," HUD proposes to remove the requirement to submit applications to HUD's local offices. This rule would allow HUD to centralize the application process for insurance of a fire safety loan. HUD believes that the centralization effort will facilitate review of initial applications.

C. HHS Determination of the Need for Fire Safety Equipment. In § 232.510, in addition to proposing to eliminate the "commitment fee," HUD proposes in § 232.510(b), to remove the requirement that HHS must first determine that a facility needs fire safety equipment before FHA will insure the financing for purchase and installation of the equipment. As stated earlier, § 232.615 would continue to require that the healthcare facility meet HHS fire safety requirements upon completion of installation in order for the facility to be an eligible borrower. Therefore, a provision that the Secretary of HHS must approve each facility before HUD makes a commitment is superfluous.

D. Method of loan payment and amortization period. For § 232.540, the proposed rule

would cross reference 24 CFR 200.82. Section 200.82 establishes the maximum and minimum mortgage term, and specifies that the mortgage shall contain complete amortization satisfactory to the Commissioner.

E. Maximum loan amount. In § 232.565, the maximum loan amount would be revised to allow for the financing of fees, similar to the regulations governing fees in other Section 232 loan insurance programs. Specifically, financing of fees is permitted for Section 232 refinance and acquisition transactions (see § 232.903(c) and § 232.903(d), respectively).

F. Endorsement of credit instrument. In § 232.570, which establishes qualifications for the endorsement of the credit instrument, the proposed rule would eliminate the requirement that the Secretary of HHS submit a statement that the fire safety equipment has been satisfactorily installed. The proposed rule would replace this provision with a requirement of a certification that the improvements were installed as required by § 232.500(c). As stated earlier in regard to other proposed changes, § 232.615 would still require the facility to meet HHS fire safety requirements in order for HUD to insure the loan.

G. Contract requirements. In § 232.605, the proposed rule would remove the limitation that contracts be either lump sum or cost plus contracts and instead allow such contracts as may be specified by the FHA Commissioner.

H. Certification of cost requirements. In § 232.610, the proposed rule would require a certification of actual cost be made for all forms of contract, instead of only when a cost plus form of contract is used. Further, it would eliminate the requirement that the amount of the loan be adjusted to reflect the actual cost to the borrower of the improvements.

I. Eligible borrowers. In § 232.615, the proposed rule would revise the definition of “eligible borrowers” to eliminate all references to the facility meeting HHS health and safety

requirements. However, the proposed rule would retain the provision that requires the facility to meet HHS fire safety requirements. HUD's proposed changes reflect that the Subpart C regulations are about FHA-insured healthcare facilities having the appropriate fire safety equipment and were not promulgated to implement all requirements that HHS may require of healthcare facility providers to ensure eligibility to receive Medicare and Medicaid services.

J. Determination of compliance with HHS. In § 232.620, the proposed rule would eliminate the requirement that an application for fire safety equipment be accompanied by a statement from HHS or the HHS Secretary's designee, such as a State, that the facility will meet pertinent health and safety requirements of HHS—other than the fire safety equipment requirements—once the fire safety equipment has been installed. Instead of this requirement, the proposed rule would substitute a reference to certification of compliance with HHS, Federal, state and local requirements for fire safety equipment to be provided prior to endorsement. The proposed language in this section would maintain consistency with the changes made in § 232.615 and the changes are made for the same reason.

III. Findings and Certifications

Regulatory Review - Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 also directs that, where relevant, feasible, and consistent with

regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

Because this proposed rule merely updates out-of-date practices, streamlines requirements and reduces burdens, it is not determined to be a “significant regulatory action” as defined in section 3(f) of Executive Order 12866. By updating the regulations in this way, FHA is not causing a material effect on the economy, interfering with an action or planned action of another agency, materially changing the budgetary impact of the loan program or the rights or obligations of its recipients, or raising any novel legal or policy issues. The proposed rule simply consolidates fees, allows the Secretary discretion in setting fees consistent with section 207(d) of the National Housing Act, and streamlines the loan application process. Furthermore, the proposed rule comports with the directive of Executive Order 13563. As stated in the preamble, the regulations being modified have not been substantially updated for a long time.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and approved under OMB control numbers 2502-0605 and 2502-0541. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the

National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding is available for public inspection during regular business hours in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the Finding by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule would not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule imposes no requirements on small businesses. In fact, streamlining FSELP requirements should ease an existing burden on those small businesses seeking to accommodate acute care patients and those needing to upgrade or install fire safety equipment to meet HHS requirements.

Accordingly, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble to this rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule imposes either substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the Mortgage Insurance Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities is 14.129; for Mortgage Insurance-Rental Housing is 14.134; for Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects is 14.155.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government

agencies), Penalties, Reporting and recordkeeping.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs-health, Loan programs-housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated above, HUD proposes to amend 24 CFR parts 200 and 232 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

2. Amend § 200.40 by:

- a. Redesignate paragraph (d) as paragraph (d)(1);
- b. Revise the paragraph heading and first sentence of newly redesignated (d)(1); and
- c. Add paragraph (d)(2).

The revisions and addition read as follows:

§ 200.40 HUD fees.

* * * * *

(d)(1) Application fee—firm commitment: General. An application for firm commitment shall be accompanied by an application-commitment fee in an amount determined by the Secretary, which when added to any prior fees received in connection with the same application,

shall not exceed \$5.00 per thousand dollars of the requested mortgage amount to be insured. *

* *

(2) Application fee—Section 232 Programs. For purposes of mortgages insured under HUD's regulations in 24 CFR part 232, subpart C, an application for firm commitment shall be accompanied by an application fee in an amount determined by the Secretary, which shall not exceed \$5.00 per thousand dollars of the requested mortgage amount to be insured.

* * * *

PART 232 –MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

3. The authority citation for 24 CFR part 232 continues to read as follows:

Authority: 12 U.S.C. 1715b; 1715w; 42 U.S.C. 3535(d).

Subpart C—Eligibility Requirements—Supplemental Loans to Finance Purchase and Installation of Fire Safety Equipment

4. In § 232.500, revise paragraphs (c)(1) and (e) to read as follows:

§ 232.500 Definitions.

* * * *

(c) * *

(1) * *

(i) The edition of The Life Safety Code of the National Fire Protection Association as accepted by the Department of Health and Human Services in 42 CFR 483.70; or

(ii) A standard mandated by a State under the provisions of section 1616(e) of the Social

Security Act.

* * * *

(e) Equipment cost means the reasonable cost of fire safety equipment fully installed as determined by the Commissioner.

* * * *

5. Amend § 232.505 by:

- a. Removing paragraph (a); and
- b. Redesignating paragraphs (b) and (c) as paragraphs (a) and (b), and revising the newly redesignated paragraphs.

The revisions read as follows:

§ 232.505 Application and application fee.

(a) Filing of application. An application for insurance of a fire safety loan for a nursing home, intermediate care facility, assisted living facility or board and care home shall be submitted on an approved HUD form by an approved lender and by the owners of the project to the HUD office.

(b) Application fee. See 24 CFR 200.40(d)(2).

6. Amend § 232.510 by:

- (a) Revising paragraphs (b), (c) and (d);
- (b) Removing paragraph (e); and
- (c) Redesignating paragraph (f) as paragraph (e) and revising newlydesignated paragraph (e) to read as follows:

§ 232.510 Commitment and commitment fee.

* * * * *

(b) Type of commitment. The commitment will provide for the insurance of the loan after satisfactory completion of installation of the fire safety equipment, as determined by the Commissioner.

(c) Term of commitment. A commitment shall have a term as the Commissioner deems necessary for satisfactory completion of installation.

(d) Commitment fee. See 24 CFR 200.40(d)(2).

(e) Increase in commitment prior to endorsement. An application, filed prior to endorsement, for an increase in the amount of an outstanding firm commitment shall be accompanied by an additional application fee. The additional application fee shall be in an amount determined by the Secretary equal to the amount determined under 24 CFR 200.40(d)(2), which shall not exceed \$5.00 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. The additional inspection fee shall be paid prior to the date installation of fire safety equipment is begun, or, if installation has begun, it shall be paid with the application for increase.

7. Revise § 232.515 to read as follows:

§ 232.515 Refund of fees.

If the amount of the commitment issued or an increase in loan prior to endorsement is less than the amount applied for, the Commissioner shall refund the excess amount of the

application fee submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application fee or any portion thereof may be returned to the applicant.

8. Revise § 232.520 to read as follows:

§ 232.520 Maximum fees and charges by lender.

See 24 CFR 200.40 titled “HUD fees” and 200.41 titled “Maximum mortgage fees and charges” for maximum fees and charges applicable to mortgages insured under 24 CFR part 232.

9. Revise § 232.522 to read as follows:

§ 232.522 Inspection fee.

See 24 CFR 200.40 titled “HUD fees” and 200.41 titled “Maximum mortgage fees and charges” for maximum fees and charges applicable to mortgages insured under 24 CFR part 232.

10. Revise § 232.540 to read as follows:

§ 232.540 Method of loan payment and amortization period.

See 24 CFR 200.82 titled “Maturity” for loan payment and amortization period requirements applicable to mortgages insured under 24 CFR part 232.

11. In § 232.565, revise the first sentence to read as follows:

§ 232.565 Maximum loan amount.

The principal amount of the loan shall not exceed the lower of the Commissioner's estimate of the cost of the fire safety equipment, including the cost of installation and eligible

fees, or the amount supported by ninety percent (90%) of the residual income, which is ninety percent (90%) of the amount of net income remaining after payment of all existing debt service requirements, as determined by the Commissioner. * * *

12. In § 232.570, revise paragraph (c) to read as follows:

§ 232.570 Endorsement of credit instrument.

* * * * *

(c) Certification that fire safety equipment was installed as required by § 232.500(c).

13. Revise § 232.605 to read as follows:

§ 232.605 Contract requirements.

The contract between the mortgagor and the general contractor may be in the form of a lump sum contract, a cost plus contract, or different or alternative forms of contract specified by the Commissioner.

14. In § 232.610, revise paragraph (a) to read as follows:

§ 232.610 Certification of cost requirements.

(a) Certificate and adjustment. No loan shall be insured unless a certification of actual cost is made by the contractor.

* * * * *

15. In § 232.615, revise paragraph (a) to read as follows:

§ 232.615 Eligible borrowers.

(a) In order to be eligible as a borrower under this subpart the applicant shall be a profit or non-profit entity, which owns a nursing home or intermediate care facility for which the Secretary of Health and Human Services has determined that the installation of fire safety equipment in such facility is necessary to meet the applicable requirements of the Secretary of Health and Human Services for providers of services under Title XVIII and Title XIX of the Social Security Act and that upon completion of the installation of such equipment the nursing home or intermediate care facility will meet the applicable fire safety requirements of HHS. Until the termination of all obligations of the Commissioner under an insurance contract under this subpart and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the loan, the borrower shall be regulated or restricted by the Commissioner as to methods of operation including requirements for maintenance of fire safety equipment.

* * * * *

16. Revise § 232.620 to read as follows:

§ 232.620 Determination of compliance with fire safety equipment requirements.

Prior to Endorsement, applicant must provide certification that the installed improvements will meet HHS, as well as all other Federal, state and local requirements for fire safety equipment, if applicable.

Dated: December 16, 2014

Biniam Gebre,
Acting Assistant Secretary for Housing–
Federal Housing Commissioner

[FR-5632-P-01]

[FR Doc. 2015-00373 Filed 01/13/2015 at 8:45 am; Publication Date: 01/14/2015]